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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,839	06/01/2001	George M. Harris	7586	2825

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WILLIAM S. LIGHTBODY  
LIGHTBODY LAW OFFICE  
ATRIUM SUITE 100  
32600 FAIRMOUNT BLVD.  
PEPPER PIKE, OH 44124

EXAMINER

TAKAOKA, DEAN O

ART UNIT

PAPER NUMBER

2817

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/871,839

Applicant(s)

HARRIS, GEORGE M.

Examiner

Dean O Takaoka

Art Unit

2817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment (A), paper no. 7.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1, 13, 19, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 2-12, 14-18 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference numbers **30 – 34 (Fig. 5)**.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numbers **55 – 65 (page 12, second paragraph)**. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The applicant is required to provide a copy of the drawings with proposed drawing changes marked in red ink as required by 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 12, 14 – 18, 20, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, 2, 3, 5, 11, 12, 14, and 20 recite the limitation "power selective probe(s)" in the claims. There is insufficient antecedent basis for this limitation in the claim.

The claims recite "power selective probe(s)", e.g. plural, where only a singular "power selective probe" is previously recited in the claims, thus there is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13, 19, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Zimmerman (US Patent No. 5,656,980) for reasons of record contained in the previous Office Action dated July 26, 2002 (paper no. 4).

Claims 1, 13, and 19 add the limitation "utilized in a high energy electromagnetic treatment system, the waveguide".

Claim 23 adds the limitation "high energy electromagnetic treatment system, the system utilizing a".

It is the position of the Examiner that the newly added limitation(s) "high energy electromagnetic treatment system" adds nothing to the claims and is anticipated by the

prior art of Zimmerman. The term "high", e.g. as in "high energy", is an open term where any device used as a power conduit, such as the device taught by Zimmerman, may be defined being used in a "high energy" application. Clearly Zimmerman teaches the device used in RF signal applications (cols. 1 and 2, all), with RF signals being defined by the Examiner as "high energy". Zimmerman further teaches the filtering of the RF signals (col. 2, lines 30-36) thus providing a "treatment system", thus anticipating the newly added limitation(s).

Claim 22 is unchanged and remains anticipated by Zimmerman.

#### ***Response to Arguments***

Applicant's arguments filed February 11, 2003 (Amendment A – paper no. 7) have been fully considered but they are not persuasive.

The power division of current invention versus the prior art of Zimmerman is discussed. It is argued that Zimmerman teaches a coupling of an antenna to plural receivers providing "very low powered signals". The coupling of the antenna is indeed taught by Zimmerman, however the device of Zimmerman providing "very low powered signals" is subject to interpretation (e.g. what is defined as "high power" and "low power") and not commensurate with what is being claimed. It is asserted by the Examiner that the claims merely recite "high energy" which may or may not equate to "high power". Clearly Zimmerman teaches the device used in RF signal applications, with RF signals being of "high frequency", thus "high energy".

It is argued that the low power antenna coupling of Zimmerman is in a totally different field from that of the present invention, where it is argued that "it is not believed

suitable to attach Zimmerman to a high energy electromagnetic treatment system in that by being a filter, Zimmerman will lose efficiency by tuning energy into heat", to which the Examiner disagrees in that this is again subject to interpretation and is not commensurate with what is being claimed.

It is the position of the Examiner that the prior art of Zimmerman anticipates the newly added limitation(s) and that the newly amended claims are not patenably distinct from the prior art of Zimmerman.

#### ***Allowable Subject Matter***

Claim 21 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of Zimmerman does not show the distance between the power divider and each of the power selective probes being within 0.1 of 91% of the wavelength of the center frequency.

Claims 2 – 12, 14 – 18, 20 and 23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

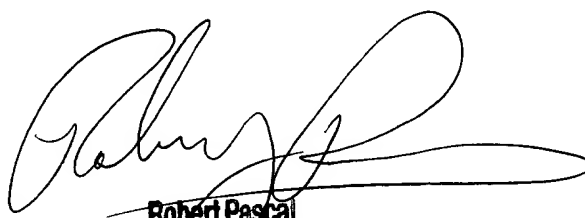
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean O Takaoka whose telephone number is (703) 305-6242. The examiner can normally be reached on 8:30a - 5:00p Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (703) 308-4909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

dot  
March 25, 2003



Robert Pascal  
Supervisory Patent Examiner  
Technology Center 2800